

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CONCETTA NYMAN,
Plaintiff,

v.

FEDERAL RESERVE BANK
OF BOSTON,
Defendant.

Civil Action No. 05-10412-JLT

DEFENDANT’S MOTION FOR SUMMARY JUDGMENT

Defendant Federal Reserve Bank of Boston (the “Bank”) hereby moves the Court pursuant to Fed. R. Civ. P. 56 for the entry of a summary judgment in its favor and against Plaintiff Concetta Nyman (“Nyman”), dismissing the Complaint in its entirety, on the grounds that there are no genuine issues of material fact and the Bank is entitled to judgment as a matter of law. Nyman, a former employee of the Bank, alleges that, from some unspecified time in 2001 until she left her job in April 2003, the Bank failed to provide an accommodation for her alleged disability, in violation of the Americans With Disabilities Act of 1990 (“ADA”), 42 U.S.C. §§ 12101 et seq. Nyman’s claim is without merit and should be dismissed because (1) Nyman did not exhaust her administrative remedies by filing a timely charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”); (2) Nyman’s physical limitation -- a 10-pound lifting restriction -- does not constitute a “disability” covered by the ADA; and (3) the Bank accommodated Nyman by giving her a job that did not require her

to lift more than 10 pounds. The grounds for this motion are set forth more fully in Defendant's Memorandum of Law, filed herewith.

WHEREFORE, Defendant requests that the Court enter a judgment in its favor on each Count of the Complaint.

CERTIFICATE PURSUANT TO LOCAL RULE 7.1

The undersigned hereby certifies that she has conferred with opposing counsel and attempted in good faith to resolve or narrow the issues raised in this motion.

ORAL ARGUMENT REQUESTED.

FEDERAL RESERVE BANK OF BOSTON,

By its attorneys,

/s/ Ilene Robinson Sunshine
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Dated: May 16, 2006

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on May 16, 2006.

/s/ Ilene Robinson Sunshine